

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION**

CHRISTOPHER NELSON

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Complainant

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VS.

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CIVIL ACTION NO. 7:20-cv-00244

**ROBERT EARL TRUELOVE AND
J&B HEAVY HAUL, INC.
Defendants**

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JURY TRIAL DEMANDED

Defendants

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ORIGINAL COMPLAINT

COMES NOW, Complainant CHRISTOPHER NELSON and files this Original Complaint against Defendants ROBERT EARL TRUELOVE (hereinafter referred to as "Defendant TRUELOVE") and J&B HEAVY HAUL, INC. (hereinafter referred to as "Defendant J&B") and alleges as follows:

1.0 Introduction

1.1 This cause of action is against Defendant TRUELOVE for his negligence while driving, resulting in a collision with Complainant CHRISTOPHER NELSON'S vehicle on November 16, 2018. Defendant TRUELOVE'S negligence proximately caused Complainant CHRISTOPHER NELSON to suffer serious bodily injuries on or about November 16, 2018, on Hwy 137, in Martin County, Texas.

1.2 Throughout the entirety of the events, actions, and omissions leading to the collision that forms the basis of this litigation, Defendant TRUELOVE acted within the course and scope of his employment with Defendant J&B. Thus, cause of action is brought against Defendant J&B under the doctrine of *respondeat Superior*. Defendant J&B is vicariously liable for all damages resulting from the actions of Defendant TRUELOVE.

2.0 Parties

2.1 Complainant, CHRISTOPHER NELSON, is a resident of Yazoo City, Missouri.

2.2 Defendant ROBERT EARL TRUELOVE is a resident of Oklahoma and may be served by personal service at his residence, 5107 N. Hwy 97, Sand Springs, Oklahoma 74063, or wherever he may be found.

2.3 Defendant J&B HEAVY HAUL, INC. is an Oklahoma Limited Liability Company with its principal place of business in Oklahoma City, Oklahoma, and may be served by serving its registered agent for service at 2724 S. Vermont Avenue, Oklahoma City, Oklahoma.

3.0 Jurisdiction

3.1 This Court has original jurisdiction pursuant to 28 U.S.C. § 1332.

3.2 Complainant is a resident of Missouri. Defendant TRUELOVE is a resident of Oklahoma. Defendant J&B is an Oklahoma Company with its principal place of business in Oklahoma. Thus, there is complete diversity of citizenship between Complainant and Defendants.

3.3 The amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00.

4.0 Venue

4.1 The United States District Court, Western District of Texas, Midland-Odessa Division, maintains jurisdiction over the following Texas counties: Andrews, Martin, Ector, Midland, Crane, and Upton.

4.2 Venue of this suite is proper in the Western District of Texas, Midland-Odessa Division, pursuant to 28 .S.C. § 1391(b)(2), because a substantial part of the events giving rise to the claim made the basis of this Original Complaint occurred in Martin County, Texas, which lies in the Midland-Odessa Division of the Western District of Texas.

5.0 Facts

5.1 On or about November 16, 2018, at or about 11:14 a.m., Complainant was traveling north on N. Highway 137. At or about the time same, Defendant TRUELOVE was traveling south on N. Highway 137. As Defendant TRUELOVE turned westbound on to the service road, he crossed from the center turn-lane into the northbound lane of traffic. Despite Complainant's attempt to veer to his right and avoid the collision, Defendant TRUELOVE collided with Complainant, thus causing the injuries to Complainant as hereinafter more fully set forth.

5.2 At the time of the collision in question, Defendant TRUELOVE was in the course and scope of his employment with Defendant J&B. Further, and at all times relevant, Defendant J&B allowed, gave permission, instructed, and/or had knowledge of Defendant TRUELOVE's use an operation of a tractor-trailer owned and/or controlled by Defendant J&B.

6.0 Cause of Action

NEGLIGENCE – DEFENDANT TRUELOVE

6.1 Defendant TRUELOVE owed a duty to his fellow motorist, Complainant CHRISTOPHER NELSON, to exercise ordinary care while operating the semi-truck in which he traveled.

6.2 At the time and on the occasion in question, Defendant TRUELOVE failed to use ordinary care in one or more of the following particulars:

- a) he failed to keep a proper lookout;
- b) he failed to control his speed;
- d) he failed to negotiate a turn safely; and
- e) he failed to maintain a single lane of travel.

6.3 One or more of the above acts and/or omissions constitutes negligence and as such was a proximate cause of the collision and injuries in question.

VICARIOUS LIABILITY/RESPONDEAT SUPERIOR - DEFENDANT J&B

6.4 At all times material hereto, all agents, servants, and/or employees of Defendant J&B, including Defendant TRUELOVE, were acting within the course and scope of employment and/or official duties.

6.5 Furthermore, at all times material hereto, all agents, servants, and/or employees of Defendant J&B including Defendant TRUELOVE were acting in furtherance of the duties of their office and/or employment.

6.6 Therefore, Defendant J&B is responsible for all damages resulting from the negligent acts and/or omissions of its agents, servants, and/or employees, including Defendant TRUELOVE, pursuant to the Doctrine of *Respondeat Superior*.

6.7 Defendant J&B is vicariously liable as a matter of law, for any and all negligence of their employees, pursuant to the doctrine of *respondeat superior* under Texas law.

**NEGLIGENT HIRING, SUPERVISION, TRAINING
AND RETENTION - DEFENDANT J&B**

6.8 In the alternative, Defendant J&B owed a duty to the general public, including motorists and Plaintiff, to exercise ordinary care in the hiring of competent drivers and in the supervision, management, training and retention of its drivers. Defendant TRUELOVE failed to use ordinary care: to properly investigate Defendant TRUELOVE as a driver; in retaining Defendant TRUELOVE as a driver; to properly supervise Defendant TRUELOVE; to implement adequate safeguards to prevent the collision that resulted in Plaintiff's injuries; and to provide adequate oversight of Defendant TRUELOVE.

6.9 These acts and/or omissions created an environment in which the Plaintiff's injuries were likely and reasonably foreseeable to occur, and which in fact did occur. The negligent acts and/or omissions of Defendant J&B are a proximate cause of the injuries and damages sustained by Plaintiff.

7.0 Damages

7.1 As a result of the collision in question, Complainant CHRISTOPHER NELSON suffered the following damages:

- a. Medical expenses in the past;
- b. Medical expenses, that in reasonable probability, he will suffer in the future;
- c. Physical impairment in the past;
- d. Physical impairment, that in reasonable probability, he will suffer in the future;
- e. Pain and suffering in the past;
- f. Pain and suffering, that in reasonable probability, he will suffer in the future;
- g. Mental anguish in the past;
- h. Mental anguish, that in reasonable probability, he will suffer in the future;
- i. Physical disfigurement in the past; and
- j. Physical disfigurement, that in reasonable probability, he will suffer in the future;

8.0 Jury Trial

8.1 Complainant hereby requests a trial by jury, pursuant to the 7th Amendment of the United States Constitution.

9.0 Prayer

9.1 WHEREFORE, PREMISES CONSIDERED, Complainant respectfully requests that Defendant be served with summons and after a jury trial herein, Complainant have and recover against Defendant the following relief:

- a. Judgment against Defendant for all of Complainant's actual damages as determined by the evidence;
- b. Pre-judgment and post-judgment interest as provided by law;
- c. Costs of court as provided by law;
- d. Such other relief to which Complainant may be entitled.

Respectfully submitted,
THE MATHIS LAW FIRM, PLLC
P.O. Box 3836
San Angelo, Texas 76902
Tel 432-218-5820
Fax 325-716-4840

BY Austin Mathis
Austin Mathis
SBN: 24072224
austinmathis@themathislawfirm.com
brookequinney@themathislawfirm.com
Attorney for Plaintiff